

Introduced by Senator Margett
(Coauthor: Assembly Member Tran)

February 16, 2005

An act to amend Sections 2800.1, 2800.2, and 2800.3 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 317, as introduced, Margett. Peace officer : vehicle pursuit.

(1) Existing law makes it a misdemeanor, punishable by imprisonment in a county jail not exceeding 6 months, for any person while operating a motor vehicle to intentionally evade, willfully flee, or otherwise attempt to evade a pursuing peace officer's motor vehicle or bicycle under certain conditions.

This bill would make it a misdemeanor punishable by imprisonment in a county jail not exceeding one year upon conviction of the person operating the vehicle. By increasing the punishment for a crime, this bill would impose a state-mandated local program.

(2) Existing law makes it a misdemeanor punishable by imprisonment in a county jail for not more than one year, or a felony punishable by imprisonment in the state prison, or by a fine of not less than \$1,000 nor more than \$10,000, or by both the fine and imprisonment for any person who commits the offense described in (1) above in a willful or wanton disregard for persons or property.

This bill instead would make this offense punishable by imprisonment in the state prison for 2, 3, or 4 years or by imprisonment in a county jail for not more than one year with the same fine as prescribed above.

(3) Existing law makes it a misdemeanor punishable by confinement in a county jail for not more than one year or a felony punishable by imprisonment in the state prison for 3, 4, or 5 years or a

specified fine for any person who commits the offense described in (1) above and proximately causes serious bodily injury, as defined, or death to any person.

This bill would increase the term of imprisonment in the state prison as follows:

(a) A term of 3, 5, or 7 years or the specified fine or both the fine and imprisonment where the offense involves serious bodily injury.

(b) A term of 4, 6, or 10 years in the state prison where the offense involves a death.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2800.1 of the Vehicle Code is amended
2 to read:

3 2800.1. (a) Any person who, while operating a motor vehicle
4 and with the intent to evade, willfully flees or otherwise attempts
5 to elude a pursuing peace officer's motor vehicle, is guilty of a
6 misdemeanor *punishable by imprisonment in a county jail for not*
7 *more than one year* if all of the following conditions exist:

8 (1) The peace officer's motor vehicle is exhibiting at least one
9 lighted red lamp visible from the front and the person either sees
10 or reasonably should have seen the lamp.

11 (2) The peace officer's motor vehicle is sounding a siren as
12 may be reasonably necessary.

13 (3) The peace officer's motor vehicle is distinctively marked.

14 (4) The peace officer's motor vehicle is operated by a peace
15 officer, as defined in Chapter 4.5 (commencing with Section 830)
16 of Title 3 of Part 2 of the Penal Code, and that peace officer is
17 wearing a distinctive uniform.

18 (b) Any person who, while operating a motor vehicle and with
19 the intent to evade, willfully flees or otherwise attempts to elude
20 a pursuing peace officer's bicycle, is guilty of a misdemeanor

1 *punishable by imprisonment in a county jail for not more than*
2 *one year* if the following conditions exist:

3 (1) The peace officer's bicycle is distinctively marked.

4 (2) The peace officer's bicycle is operated by a peace officer,
5 as defined in paragraph (4) of subdivision (a), and that peace
6 officer is wearing a distinctive uniform.

7 (3) The peace officer gives a verbal command to stop.

8 (4) The peace officer sounds a horn that produces a sound of at
9 least 115 decibels.

10 (5) The peace officer gives a hand signal commanding the
11 person to stop.

12 (6) The person is aware or reasonably should have been aware
13 of the verbal command, horn, and hand signal, but refuses to
14 comply with the command to stop.

15 SEC. 2. Section 2800.2 of the Vehicle Code is amended to
16 read:

17 2800.2. (a) If a person flees or attempts to elude a pursuing
18 peace officer in violation of Section 2800.1 and the pursued
19 vehicle is driven in a willful or wanton disregard for the safety of
20 persons or property, the person driving the vehicle, upon
21 conviction, shall be punished by imprisonment in the state prison;
22 *for two, three, or four years* or by ~~confinement~~ imprisonment in
23 the county jail for not less than six months nor more than one
24 year. The court may also impose a fine of not less than one
25 thousand dollars (\$1,000) nor more than ten thousand dollars
26 (\$10,000), or may impose both that imprisonment or ~~confinement~~
27 and fine.

28 (b) For purposes of this section, a willful or wanton disregard
29 for the safety of persons or property includes, but is not limited
30 to, driving while fleeing or attempting to elude a pursuing peace
31 officer during which time either three or more violations that are
32 assigned a traffic violation point count under Section 12810
33 occur, or damage to property occurs.

34 SEC. 3. Section 2800.3 of the Vehicle Code is amended to
35 read:

36 2800.3. (a) Whenever willful flight or attempt to elude a
37 pursuing peace officer in violation of Section 2800.1 proximately
38 causes ~~death or~~ serious bodily injury to any person, the person
39 driving the pursued vehicle, upon conviction, shall be punished
40 by imprisonment in the state prison for three, ~~four~~ five, or five

1 seven years, by imprisonment in ~~the~~ a county jail for not more
2 than one year, or by a fine of not less than two thousand dollars
3 (\$2,000) nor more than ten thousand dollars (\$10,000), or by
4 both that fine and imprisonment.

5 *(b) Whenever willful flight or attempt to elude a pursuing*
6 *peace officer in violation of Section 2800.1 proximately causes*
7 *death to a person, the person driving the pursued vehicle, upon*
8 *conviction, shall be punished by imprisonment in the state prison*
9 *for a term of four, six, or 10 years.*

10 *(c) Nothing in this section shall preclude the imposition of a*
11 *greater sentence pursuant to Section 190 of the Penal Code or*
12 *any other provisions of law applicable to punishment for an*
13 *unlawful death.*

14 ~~For~~

15 *(d) For purposes of this section, “serious bodily injury” has*
16 *the same meaning as defined in paragraph (4) of subdivision (f)*
17 *of Section 243 of the Penal Code.*

18 SEC. 4. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the
23 penalty for a crime or infraction, within the meaning of Section
24 17556 of the Government Code, or changes the definition of a
25 crime within the meaning of Section 6 of Article XIII B of the
26 California Constitution.